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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,449	01/27/2004	William A. Wiles	WILES-005	8575

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EXAMINER
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LINDSEY, RODNEY M

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

6

<b>Office Action Summary</b>	<b>Application No.</b> 10/765,449	<b>Applicant(s)</b> WILES, WILLIAM A.	
	<b>Examiner</b> Rodney M. Lindsey	<b>Art Unit</b> 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: per paragraph [0018] no section 10-10 of Figure 9 can be found in any figure of the drawings.

Appropriate correction is required.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: section 10-10 of Figure 9. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6, 7 and 10-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 6, line 2 "said foam", in claim 7, line 1 "said

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attachment portion”, line 4 “said sweat band”, “the web portion” and “said helmet” and line 5 “said helmet” and in claim 12, line 4 “said sweat band portion”, all, have no antecedent basis. In claim 10, line 4 “a cushion said helmet body” is awkward language making the claim confusing.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 4, 5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Dougherty. With respect to claims 1 and 5 note the sweatband 10 equivalent to a helmet cushion as claimed and comprising a hydrophilic foam core 30 (see column 2, lines 4-6) and a fabric at 12, 14 for contacting the head of a wearer. With respect to claims 4 and 9 note the moisture wicking fabric (see column 2, line 4) capable of absorbing sweat. Further with respect to claim 5 note the attachment portion 52.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 2, 3, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dougherty in view of Hermann. With respect to claims 2, 3 and 8 Dougherty does not teach the foam core resistant to bacteria or organisms. Hermann teaches the use of a bactericide (see

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column 2, line 37). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the foam core 30 of Dougherty with the bactericide of Hermann to achieve the advantage of killing germs/organisms. With respect to claim 6 Dougherty does not teach the foam comprising absorbent polymer crystals. Hermann teaches the use of super absorbent polymers equivalent to absorbent polymer crystals (see column 5, lines 39-64). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the foam core 30 of Dougherty with the super absorbent polymers of Hermann to achieve the advantage of increasing the capacity of the foam core to absorb sweat.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dougherty in view of Kallis. Dougherty does not teach a plurality of strips carrying hook portions for securing the sweatband. Kallis teaches the use of a plurality of strips 24 carrying hook portions 31 (see column 2, lines 1-22). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the sweatband of Dougherty with the strips 24 of Kallis to achieve an alternative means of securing the sweatband to a support.

10. Claims 10, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kallis in view of Dougherty. With respect to claim 10 Kallis shows a helmet /hard hat comprising a suspension 10 for being carried by the helmet body and an absorbent cushion, the cushion comprising a cushion portion 40 and an attachment portion 42. Kallis does not teach the cushion portion comprising a hydrophilic foam core and a fabric covering said foam core. Dougherty teaches forming a cushion to comprise a cushion portion comprising a hydrophilic foam core 30 (see column 2, line 5) and a fabric at 12, 14 covering the foam core 30. It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the

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cushion portion of Dougherty for that at 40 of Kallis to achieve a like function of absorbing sweat. With respect to claim 12 Kallis does not teach a plurality of strips carrying hook portions as the attachment portion for the cushion portion 40. However Kallis does teach that a plurality of strips 24 carrying hook portions 31 can be used for attaching a liner 20. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cushion portion or liner 40 of Kallis with a plurality of strips carrying hook portions in the manner of the liner 20 to achieve a like result of securing the liner to a support. With respect to claim 14 note the teaching of the absorptive fabric 12, 14 of Dougherty equivalent to a moisture wicking fabric as claimed.

11. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kallis in view of Dougherty as applied to claim 10 above, and further in view of Hermann. With respect to claim 11 Kallis as modified does not teach the foam comprising absorbent polymer crystals. Hermann teaches the use of super absorbent polymers equivalent to absorbent polymer crystals (see column 5, lines 39-64). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the foam core of the modified helmet of Kallis with the super absorbent polymers of Hermann to achieve the advantage of increasing the capacity of the foam core to absorb sweat. With respect to claim 13 Kallis as modified does not teach the foam core resistant to bacteria or organisms. Hermann teaches the use of a bactericide (see column 2, line 37). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the foam core of the modified helmet of Kallis with the bactericide of Hermann to achieve the advantage of killing germs/organisms.

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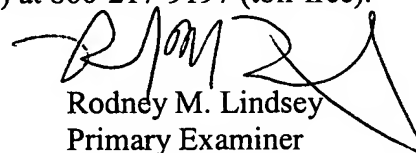
*Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note particularly, the crystals of Benston and Cargill et al., the cushioned headgears of Arai, Chichester-Miles, Marietta '792, Sherlock et al., Froehlich, Groot, Immel, Lehmberg et al., Militello, Rovani, Grilliot et al., Heine et al. and Marietta '113 and cushion characteristics of Simmons, Sabee et al., Wishman, Tivis, Madow et al., DeMott et al., Blaszczykiewicz and Nebeker.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (571) 272-4989. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Rodney M. Lindsey  
Primary Examiner  
Art Unit 3765

rml